

Commander / Leader Engagement Talking Points
21 June 2013

JFHQ SARC Name/ Phone # _____

JFHQ Victim Advocate Name/ Phone # _____

Brigade SHARP/VA Name/ Phone # _____

Battalion SHARP/ VA Name/ Phone # _____

“Sexual assault is a crime...a persistent problem that violates everything we stand for. We must do everything we can do to protect our men and women from sexual assault, and those who would attack their dignity and their honor.” GEN FRANK J. GRASS, Chief National Guard Bureau

Ladies and Gentlemen,

The following topics are provided to help you guide the SHARP Stand Down discussions with your commands. The purpose of the training is to ensure that we not only educate Soldiers on SHARP, but that they understand your intent to meet GEN Grass' message above. This is not the required annual SHARP training, but rather a discussion with your Soldiers on individual responsibility for maintaining a climate of dignity and respect. The Army Values and the Warrior Ethos should be included throughout the discussion. Please modify as needed, but the points below can serve as a guide for the discussion. Additionally, it is important that Soldiers have the contact information for the SARC/VA in their chain of command. Please provide during the discussions.

1. What is Sexual Harassment? Sexual Harassment is a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

- Give me some examples?
- Is this happening in our unit that I am not aware of? As your CO I take my responsibility as a leader seriously. It's important for you to know that you can come to me about these issues, so they can be addressed.

What is Sexual Assault? The Dept of Defense defines sexual assault as “Intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these acts.”

Who can be a victim of sexual assault? Anyone. In fact, in 2007 the Veteran's Administration identified over 32,000 male veterans who reported being sexually assaulted during their active duty service.

2. What is consent? Give me an example of consent?

- **Possible answers:**
- When you ask someone if they want to have sex, and they say yes

Note:

- If attendees give examples like flirting, dancing or making out, redirect conversation and emphasize that consent is the presence of yes, not the absence of no, given by someone able to consent.
- The DoDI defines consent as words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent. There is no consent where the person is sleeping or incapacitated, such as due to age, alcohol or drugs, or mental incapacity.
- Attendees may ask about giving consent when alcohol is involved. If possible, have your JAG attend the briefing to address legal questions. Advise participants that every person's tolerance for alcohol is different and there is no absolute answer.
- BLUF Are they willing to risk their military career, risk going to jail and risk destroying a fellow Soldier's life? Making responsible choices in all areas of their life supports the unit's ability to accomplish the mission and demonstrates true warrior ethos.

3. Give me an example of Sexual Assault?

- Answers can range from rape to wrongful sexual contact, e.g. touching someone's buttocks, breasts or groin area.
- No matter your duty status, sexual assault is always a crime. Reported assaults will be referred to the appropriate law enforcement agency and fully investigated. If a member of the National Guard is convicted of a sex related offense they will no longer be part of the Guard. Sexual assault is a betrayal of everything we stand for and it will not be tolerated

4. Who is eligible to make a report?

- All members of the ARNG are eligible to make a restricted or unrestricted report, even if the assault occurred when the victim was in a non-duty status.

5. What is Restricted Reporting?

- A. Restricted reporting allows a victim of sexual assault to obtain medical treatment, advocacy and referrals without notifying law enforcement or their chain of command.

- B. To maintain full confidentiality and protect reporting options, victims can talk to the unit SHARP SARC or VA. Victims can always talk to the Chaplain, who provides fully privileged communication.
- C. **NO ONE** inside the chain of command will know about the assault. The JFHQ SARC will notify the TAG and provide only non-identifying information about the incident.

A limitation of restricted reporting is that there is no chance to hold offenders accountable for their actions. A victim may have to continue to work with the perpetrator and be unable to obtain an expedited transfer or military protection order because command does not know about the incident. Victims can always receive medical care and if they were in a duty status at the time of the assault the SARC can process an LOD, through protected channels.

6. What is Unrestricted Reporting?

- A. Unrestricted reporting allows a victim to report their assault to their chain of command, law enforcement or the SARC/VA SHARP specialist and have the report fully investigated by law enforcement and receive the full support of their command.
- B. Victims can make an unrestricted report to a SHARP/VA, medic, Chaplain, law enforcement, or the chain of command.
- C. Offenders may be held accountable depending on full investigation
- D. Commanders should use the checklist attached to handle these cases.

7. Difference between T10 and T32

- A. Incidents can occur while at active training locations and on drill weekends. While on active duty T10, victims have access to MTFs and CID. In T32 situations, local law enforcement investigates and medical care is provided by civilian medical facilities. If the victim was NOT in a duty status at the time of the assault the cost of medical treatment may be covered by state crime victim compensation programs.
- B. In all instances the state/territory JFHQ SARC must be notified immediately so they can assist the victim and ensure full compliance with existing policies and regulations.
- C. For incidents that occur in a T10 status, CID will investigate the case.
- D. For incidents that occur in a T32 status, civilian law enforcement typically has jurisdiction and will investigate.
- E. If the victim is in a duty status at the time of the assault, T10 or T32, the JFHQ SARC will prepare the LOD to cover any expenses related to medical treatment.

8. What is an expedited transfer?

- A. Soldiers who have been assaulted by someone within the unit may submit a written request to transfer to another unit.
- B. Must be an unrestricted report.
- C. Commander must confirm or deny request back in writing with 72hrs. If the request is denied, the victim can appeal to the first GO in their chain of command. They have 72 hours to confirm or deny the request.

9. National Guard Bureau's Office of Complex Investigation?

- A. If local law enforcement declines to investigate a sexual assault, the TAG can request support from the Office of Complex Investigation (OCI). OCI will provide specially trained investigators to complete the 15-6. The final investigative report is provided to the TAG for his/her action
- B. Commanders cannot conduct a 15-6 investigation on a Sexual assault allegation as it is a crime. The DoDI 6495.02 states "(1) A unit commander who receives an Unrestricted Report of a sexual assault shall immediately refer the matter to the appropriate MCIO, to include any offense identified by Reference (d). A unit commander shall not conduct internal command directed investigations on sexual assault (i.e., no referrals to appointed command investigators or inquiry officers) or delay immediately contacting the MCIOs while attempting to assess the credibility of the report.
- C. The NGB investigators provide the TAG an administrative finding of what happened. Because OCI investigators are not members of the state organization, their results are seen as objective and neutral.

10. How does Sexual Harassment and Sexual Assault impact our unit? The Army?

Possible answers: Distracts from the mission. Divides the unit, everyone takes sides. We lose good Soldiers, if they are raped and then leave the military. Erodes unit cohesiveness.

Possible Audience Questions:

Won't we have more male on male assaults with the repeal of DADT?

Rape is not about sexual gratification. It is about power and control. The majority of men who sexually assault or rape other men are heterosexual. For most sex offenders, it is a crime of opportunity and the gender, appearance or what the victim is wearing, plays no significant part in their selection of a victim.

What about false reports? I saw an article that said most military reports were false.

The Family Research Council was quoted "In 2012, there were 2,661 completed investigations, meaning that the 444 false complaints accounted for about 17 percent of all closed cases last year. False reports accounted for about 13 percent of closed cases in 2009" **HOWEVER**, they were counting unsubstantiated reports. These are reports where there was not enough evidence to prove the crime occurred. This does **NOT** mean the report was false. The Dept of Justice has consistently found the percentage of false reports of sexual assault to be the same as any other crime, between 2-7%.

Read more: <http://www.washingtontimes.com/news/2013/may/12/false-reports-outpace-sex-assaults-in-the-military/#ixzz2Woc5SJ00>

If we didn't have women in the military, we wouldn't have this problem.

Again, based on the cases reported to the Veteran's Administration, there are more male victims of sexual assault in the military than female. Rape is not about sex, but about power and control. Women have every right to serve their country and every Soldier deserves to be treated with respect.

What about hazing? When I first came in we did crazy things to each other, but we were just joking around.

In 2007 military law was changed and criminalized a wider variety of unwanted sexual contact. T-bagging or other 'hazing' behaviors are now considered abusive, criminal behavior and will not be tolerated.

I see how young women dress nowadays. What do they expect? How someone dresses has nothing to do with whether or not they will be a victim of sexual assault. It is a crime of opportunity and the perpetrator is always responsible if they make the decision to harm a fellow Soldier.

COMMANDER'S CHECKLIST: ADDRESSING UNRESTRICTED REPORTS OF SA

This checklist provides instructions for National Guard (NG) commanders who receive unrestricted reports of sexual assault (SA). An unrestricted report of SA is the process that an individual uses to disclose, without requesting confidentiality or Restricted Reporting, that he or she is the victim of a SA. A report may be made by a victim, witness, or an individual who heard about the SA. The safety of the victim is the first concern. Once victim safety is ensured, commanders or their designees must immediately notify the appropriate civilian law enforcement (LE) or Military Criminal Investigative Organization (MCIO), Army Criminal Investigations Division (CID) or Air Force Office of Special Investigation (OSI) organization. Commanders must also contact the Sexual Assault Response Coordinator (SARC) located at the Joint Force Headquarters State (JFHQ). It is imperative that commanders do not hinder a criminal investigation by investigating the matter themselves. Commanders must not perform informal inquiries, including questioning victims, alleged perpetrators, or other witnesses about the incident. Questions asked of the victim should be limited to what is necessary to deal with his or her immediate health care needs.

	Upon receiving report, contact the JFHQ SARC immediately
	Make sure the victim is safe. Do not question him or her about the incident, but get enough information to address immediate health care needs.
	Ask the victim if he or she needs to go to the hospital. If the SA occurred within the past 30 days or if he or she has any physical ailments connected to the SA, encourage him or her to do so. If necessary, transport the victim to the hospital.
	Contact the appropriate LE and/or military law enforcement. If the alleged perpetrator is on Title 10 orders or if the reported assault took place on a federal installation, contact the appropriate MCIO, CID, or OSI. If the alleged perpetrator is not on Title 10 orders and/or if the reported assault did not take place on a federal installation, contact civilian Law Enforcement.
	If possible, secure the scene of the SA and restrict the entrance area until civilian LE/MCIO arrives.
	If possible, segregate the alleged perpetrator(s) and witnesses who are on orders until LE or MCIO arrive. Involved parties should continue working, but shouldn't be allowed to speak to each other or use cellular telephones or other portable communication devices until civilian LE or MCIO arrives. Order them not to erase anything from their cellular telephones or other portable communication devices. Don't allow them to discuss the matter with anyone.
	Contact the State Active Guard Reserve (AGR) or NG Technician Judge Advocate (JA) immediately to inform them of the reported SA.
	Cooperate with civilian LE and MCIO and ensure supervisors provide full support to the investigation, consistent with law. Do not pressure or force alleged perpetrator(s) to speak with or provide materials or statements to investigators.
	Do not publicize SA and discourage others from discussing the incident openly, as it could re-victimize the victim and prevent future victims from reporting SAs.
	If contacted by the press regarding a reported SA, refer them to JFHQ Public Affairs.